

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

EUGENE L. CHERRY,

Plaintiff,

v.

Case No. 18-C-1602

JEAN LUTSEY, et al.,

Defendants.

ORDER

Plaintiff Eugene L. Cherry, who is representing himself, is proceeding on claims that Defendants violated his constitutional rights. ECF No. 10. On March 15, 2019, Cherry filed a motion for default judgment as to defendant Dr. Cynthia Koren based on her alleged failure to appear. ECF No. 20.

On November 16, 2018, the court screened Cherry's complaint and ordered service on the defendants under the Memorandum of Understanding between this court and the Wisconsin Department of Justice. ECF. No. 10. The Department of Justice refused to accept service on Dr. Koren's behalf on December 17, 2018. ECF No. 12. Two days later, the court transmitted the summons and complaint, along with the screening order, to the United States Marshals Service for service on Dr. Koren. ECF No. 14. Because Dr. Koren is not represented by the Wisconsin Department of Justice, the complaint and summons were served on her pursuant to a different procedure than they were served on the Wisconsin state defendants. *See* ECF Nos. 10, 14. This changed the timeline for Dr. Koren to enter an appearance and respond to the complaint. Her attorney filed a waiver of service, entered an appearance on her behalf, and filed an answer to the complaint on March 25, 2019, within the timeframe she had to appear and file an answer. ECF

Nos. 22, 25, 26; *see* Fed. R. Civ. P. 4(d). Accordingly, the court will deny the plaintiff's motion for default against Dr. Koren.

IT IS THEREFORE ORDERED that Cherry's motion for default judgment as to Dr. Cynthia Koren (ECF No. 20) is **DENIED**.

Dated at Green Bay, Wisconsin this 6th day of February, 2020.

s/ William C. Griesbach

William C. Griesbach, District Judge
United States District Court